

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

GREGORY JONES,)	
)	
Plaintiff,)	
)	2:24-cv-02952-TLP-tmp
v.)	
)	
AMERISAVE MORTGAGE)	
CORPORATION and FREEDOM)	
MORTGAGE CORPORATION,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

In his Report and Recommendation (“R&R”), Chief Magistrate Judge Tu M. Pham recommended that this Court deny Plaintiff’s motions for summary judgment. (ECF No. 28 (R&R); ECF Nos. 11, 13 (motions for summary judgment).) For the reasons below, this Court **ADOPTS** the R&R.

BACKGROUND AND THE R&R

On December 5, 2024, pro se Plaintiff Gregory Jones sued Defendants AmeriSave Mortgage Corporation and Freedom Mortgage Corporation. (ECF No. 1.) Under Administrative Order No. 2013-05, the Court referred the case to Judge Pham for management of all pretrial matters. On December 9, 2024, Plaintiff moved for summary judgment. (ECF No. 11.) And he amended the motion the next day. (ECF No. 13.)

On January 7, 2025, Judge Pham entered this R&R, recommending the Court deny the motions for summary judgment as premature. (ECF No. 28.) Plaintiff did not object to the R&R. The Court now turns to the legal standard and then reviews the R&R.

LEGAL STANDARD

A magistrate judge may submit to a district court judge proposed findings of fact and recommendations for deciding pretrial matters, including motions for summary judgment. 28 U.S.C. § 636(b)(1)(A)–(B). And “[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1).

If the parties do not object, the district court reviews the R&R for clear error. Fed. R. Civ. P. 72(b) advisory committee notes. And the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Judge Pham entered his R&R on January 7, 2025. Neither party objected, and the time to do so has now passed.¹ The Court therefore reviews the R&R for clear error.

DISPOSITION

Having reviewed the record, the Court finds no clear error in Judge Pham’s R&R. In fact, the Court agrees with his analysis. Rule 56 allows a party to move for summary judgment “at any time until 30 days after the close of all discovery.” Fed. R. Civ. P. 56(b). But generally, summary judgment is improper when the nonmoving party lacked an opportunity for discovery. *Stevens-Bratton v. TruGreen, Inc.*, 437 F. Supp. 3d 648, 653 (W.D. Tenn. 2020) (“[A] grant of summary judgment is improper if the non movant is given an insufficient opportunity for

¹ On January 30, 2025, Plaintiff filed a brief that, based on its title, opposed the R&R. (ECF No. 31.) But the brief itself addresses the pending motion to dismiss. (*Id.*; *see also* ECF No. 29.) And in any case, even if it were an objection, it was untimely. (ECF No. 28 (filed January 7, 2025, and instructing the Parties to object within 14 days); ECF No. 31 (filed January 30, 2025).) That same day, Plaintiff also filed a Second Amended Petition for Summary Judgment. (ECF No. 32.) Of course, a renewed motion is not an objection to the R&R. And again, even if it were, Plaintiff did not file it within 14 days of the R&R. (*See id.*) For these reasons, the Court does not construe these filings as objections to the R&R.

discovery.’” (quoting *White’s Landing Fisheries, Inc. v. Buchholzer*, 29 F.3d 229, 231–32 (6th Cir. 1994))).

At the time Plaintiff filed his motions for summary judgment, Defendants had not even filed a responsive pleading, let alone been given an opportunity for discovery. As a result, the Court agrees with Judge Pham that the motion is premature and should be denied.

CONCLUSION

The Court has reviewed Judge Pham’s R&R and finds no clear error. And so, the Court **ADOPTS** the R&R and **DENIES** Plaintiff’s motions for summary judgment as premature.

SO ORDERED, this 9th day of June, 2025.

s/ Thomas L. Parker

THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE